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THE EAGLE FLAT FILE

Negotiations with Dr. Ambedkar

July 1946 —

25/2/83

Name
Address
Particulars
File No.
Year

BHIMRAO R. AMBEDKAR,
M.A.,Ph.D.,D.Sc.,BARRISTER-AT-LAW,

1 1

"Raj Gamha"
Dadar
Bombay 14
19th June 1947

With Compliments from

Dr.B.R.Ambedkar

To

Sardar Vallabhbhai Patel,
Home Meber to the Govt of India,
New Delhi.

18/6/07

2 2

Parliament Has No Right To Abrogate Paramountcy

PRINCES MUST JOIN INDIAN UNION

Ambedkar Pooh-Poohs Alleged UNO Support

IRRESPECTIVE of the choice of the Indian States, the duty of the Interim Government is, on behalf of the people of India, to notify to His Majesty's Government that "the British Parliament has no right to pass any law abrogating paramountcy," and any clause to that effect in the forthcoming legislation on India "would be treated by the people of India as nuil and void," says Dr. B. R. Ambedkar in a statement on Indian States.

"To be independent and to hope to get recognition and protection from the U. N. organisation," says Dr. Ambedkar, "is to live in one's own paradise." Dr. Ambedkar doubts if the U. N. O. will give recognition to Indian States ignoring the claim by India of suzerainty over them. But even if that happens, Dr. Ambedkar affirms, the U. N. O. will never grant any assistance to an Indian State against external aggression or internal commotion without insisting upon the States first introducing responsible Government.

Following is the full text of Dr. Ambedkar's statement:—

The announcement by Travancore and Hyderabad that they will declare themselves independent sovereign States on 15th August, 1947 when India becomes a Dominion and the inclination shown by other States to follow their example has created a new problem which may turn out to be worse than the Hindu-Muslim problem as it is sure to result in the further Balkanization of India. Such a crucial problem requires to be seriouly considered by all so that the right solution may be found. It is in that spirit that I wish to state what I think about the Indian States declaring themselves independent instead of joining the Indian union. There are obviously, two aspects to the question. Can the States declare themselves independent? Should they declare themselves independent? For the sake of avoiding confusion it is better to deal with the two aspects of the question separately.

A Point of Law

"To begin with, the first. The basis of the claim made by the States for a right to declare themselves independent lies in the statement of May 12, 1946 issued by th Cabinet Mission in which they say that the British Government could not and will not in any circumstances transfer paramount-circumstances transfer paramountcy to an Indian Government which means that the rights of the which follow from their relationship to the Crown will no longer exist and that all the rights surrendered by the States to the Paramount Power will return to the States. The statement of the Cabinet Mission that the Crown could not transfer paramountcy is obviously not a statement of political policy. It is a statement of law; the question is: Is this a correct statement of the law as it applies to the States?

"There is nothing original in the proposition set out by the Cabinet Mission. It is a mere repetition of the view propounded by the Butler Committee appointed in 1929 to examine the relationship between the Crown and the Indian States.

"As students of the subject know, the Princes, in the stand they took before the Butler Committee, contended for two propositions:—

(I) That paramountcy could not override the terms and conditions contained in the treaties between the Princes and the States but was limited by them.

(II) That the relations embodied in paramountcy were of a personal nature between the Crown and the Princes and could not therefore be transferred by the Crown to an Indian Government without the consent of the Princes.

"The Butler Committee, without much ceremony, repudiated the first of these two contentions. It put the matter in most ruthless language by declaring that paramountcy was paramount and was not limited by any terms contained in the treaties. As regards the second contention, strangely enough, it was upheld by the Butler Committee. Whether the Butler Committee did it in order to appease the Princes who were annoyed with the Committee for turning down their contention regarding paramountcy, it is no use speculating. The fact, however, remains that it gave immense satisfaction to the Political Department of the Government of India and to the Princes.

"The doctrine that paramountcy cannot be transferred to an Indian Government is a most mischievous doctrine and is based upon an utter misunderstanding of the issues involved. The doctrine is so unnatural that the late Prof. Holdsworth, author of the History of the English Law, had to exercise a great deal of ingenuity in defending it in the pages of the Law Quarterly Review for October 1930. Unfortunately, no Indian student of constitutional law has ever bothered to controvert his views, with the result that they have remained as the last and final word on the subject. No wonder, the Cabinet Mission adopted them as valid and acted upon them in settling the issue of British India Vs Indian States. It is equally a matter for pity that the Congress Working Committee which was negotiating with the Cabinet Mission for a settlement did not challenge the proposition enunciated by the Mission in regard to paramountcy. But, these circumstances cannot take away the right of Indians to examine the matter (de novo) and come to their own independent judgment and stand for it, if they are convinced that their view is the right view, no matter what the Cabinet Mission has said.

What Is Paramountcy?

The case against the position taken by the Cabinet Mission in regard to paramountcy can be stated in the following propositions:—

(1) Much of the mystery which surounds paramountcy is due to the fact that most people do not understand what it stands for. Paramountcy, merely is another name for what is called the prerogative of the Crown. It is true that paramountcy, as a prerogative of the Crown, differs from the ordinary prerogative of the Crown in two respects:

(a) The basis of the ordinary prerogative of the Crown lies in common law as distinguished from Statute Law while the basis of the prerogative arising from paramountcy lies in treaties supplemented by usage.

(b) The common law prerogative of the Crown extends to all the subjects of the Crown, resident in the King's Dominions and over aliens temporarily resident therein, while paramountcy as a prerogative extends only over the Indian States. Paramountcy is no doubt a distinct part of he prerogative of the Crown. Notwithstanding these differences, the fact remains that paramountcy is a prerogative of the Crown.

(II) Paramountcy being the prerogative of the King, the exercise of paramountcy is, contrary to the general opinion not subject to the rules of International Law but is subject to that part of the municipal law of the British Empire which is called the law of the constitution.

(III) According to the principle of the constitutional law of the British Empire, while the prerogative vests in the King, the King has no discretion in the exercise of his prerogative. The King cannot exercise it independently of the advice given to him by the ministers. He can exercise it only in accordance with the advice given to him by the Ministers.

"The last proposition enunciated above requires further elaboration. For it may be asked on the advice of which ministry is the Crown to act. The answer is on the advice of the ministry of the Dominion concerned. Before the Statute of Westminster, the British Empire constituted one single dominion. Consequently, in the matter of the exercise of its prerogative rights, the Crown acted on the advice of the British Cabinet. After the passing of the Statute of Westminster which carved out Canada, Australia, South Africa and Ireland as separate dominions, the Crown in the exercise of its prerogative rights acts on the advice of the Cabinet of the dominion concerned. It is bound to do so. It cannot do otherwise. It follows that when India becomes a dominion, the Crown will be bound to act in the exercise of its prerogative rights i.e., paramountcy on the advice of the Indian Cabinet.

The 1935 Act

"The protagonists of the theory that paramountcy cannot be transferred to the Government of India rely on the omission from the Government of India Act, 1935, of the provisions of Sec. 39 of the Government of India Act, 1833 (they were reproduced in Sec. 33 of the Government of India Act 1915-19) according to which the Civil and Military Government of India (as distinguished from the Civil and Military Government of British India) is vested in the Governor-General-in-Council and argue that the omission is evidence in support of the conclusion that paramountcy could not be transferred to an Indian Government. To say the least, the argument is puerile. The existence or non-existence of such a provision in the Government of India Act is quite beside the point and proves nothing. The non-existence of the clause does not prove that India can, under no circumstances claim the right to advise the Crown in regard to the exercise of paramountcy. Its existence in the Government of India Act does not mean that such a power was vested in it during 1833 to 1935 when it formed part of the Act. For that very clause contained the proviso, whereby the Governor-General-in-Council was required to pay due obedience to all such orders as may be issued from the Secretary of State which means even during 1833 to 1935 the ultimate authority to advise the Crown in the matter of the exercise of the prerogative, was the Secretary of State for India i.e. British Cabinet of which he is a member.

"The different methods of disposing of paramountcy adopted in the various Acts passed by Parliament relating to the Government of India between 1833 to 1935 do not and cannot, in any way, affect the claim of the Indian people to advise the Crown in the exercise of paramountcy. Under the Constitutional Law of the Empire, only when a country has become a dominion, that it can claim the right to advise the Crown, and the fact that before it became a dominion the Crown was differently advised, is no bar to its claim.

Under the 1935 Act, India was not granted responsible Government. But even if India was granted responsible Government, India could not have claimed to advise the Crown in regard to the exercise of its prerogative rights regarding Indian States. This is because the constitutional law of the British Empire makes an important difference between responsible Government and Dominion Status. In responsible Government, the right of the Cabinet to advise the Crown and the obligation of the Crown to accept it is confined to cases of the exercise of the prerogative arising out of the internal affairs of the country. As to external affairs, the British Cabinet retained the right to advise the Crown. But in the case of a dominion, the Crown is bound to accept the advice of the Ministry with regard to all cases of the exercise of the prerogative, whether they relate to internal affairs or external affairs, that is why a Dominion can make a treaty with a foreign country without the intervention of the British Cabinet. The fact that the Government of India was not in the past permitted to advise the Crown in the exercise of its rights of paramountcy does not mean that there is any inherent constitutional incapacity which disentitles her from claiming the right to advise. The moment India gets the status of a Dominion it automatically acquires the capacity to advise the Crown on paramountcy.

What has been stated above is no more than a summary of the constitutional law of the British Empire and the process of its evolution showing how a part of the Empire, which acquires the status of a Dominion, becomes vested with the exclusive right to advise the Crown in the exercise of its prerogative affecting that Dominion. Why should this right be denied to India when she becomes a Dominion, it is difficult to understand. On parity of reasoning, India should get the right to advise the Crown in the exercise of its prerogative as did Canada, Australia, South Africa and Ireland and when they became Dominions. That Prof. Holsworth came to a different conclusion is due not to any difference in the fundamental propositions of the constitutional law stated above. Indeed, he accepts them in toto. The reason why he came to a different conclusion is, because he posed quite a different question for argument. The question posed by Prof. Holdsworth was whether the Crown could cede or transfer paramountcy to an Indian Government. This is not the real issue. The real issue is, whether the Indian Dominion can claim the right to advise the Crown in the exercise of paramountcy. In other words, we are not concerned with the question, whether paramountcy could be transferred. The issue with which we are concerned is how paramountcy can be exercised. I am sure that if Prof. Holdsworth had realised what the real issue was, he could not have come to a different conclusion.

Crown's Responsibility

"So far I have dealt with one part of the Cabinet Mission's statement where they say that the Crown could not transfer paramountcy to an Indian Government. There remains for consideration the other part of their statement in which they say that the Crown will not transfer paramountcy to an Indian Government. According to the Cabinet Mission, paramountcy will lapse. This is a most astounding statement and runs contrary to another well-established principle of the Constitutional Law. According to this principle, the King cannot surrender or abandon his prerogative rights. If the Crown cannot transfer paramountcy the Crown cannot also abandon it. The validity of this principle was admitted by the Privy Council in the Queen vs. Edulji Byramji decided in 1840 and reported in 5 Moore's Privy Council cases P. 276 wherein they said (P. 294) that the Crown could not, even by charter, part with its prerogative. It is, therefore obvious that the statement made by the Cabinet Mission that the Crown will not exercise paramountcy is contrary to the Constitutional Law by which the Empire is governed. The Crown must continue to exercise paramountcy. It is, of course, true that the Crown can surrender its prerogative if permitted to do so by express Statutory Authority. The question is whether it could be legal and proper for the British Parliament to make a law permitting the abandonment of paramountcy. It would be open, I am sure, for Indians to argue that such a step by the British Parliament would neither be proper nor legal. It would not be legal for the simple reason that after India becomes a Dominon, the statute abrogating paramountcy can be passed by the Dominion Parliament of India and the British Parliament would have no jurisdiction in this matter at all. Again, a Statute passed by the Parliament of the Great Britain abrogating paramountcy would be improper. The reason is obvious. The army is the ultimate sanction for paramountcy. This army has been the Indian Army for which British India has paid all along. Without the aid of this powerful army, maintained by British India and placed at the disposal of the Crown through his agent the Viceroy and Governor-General of India, the Crown would never have been able to build up and conserve the powers of paramountcy. These powers are of the nature of a trust held by the Crown. For the benefit of the people of India and it would be a gross abuse of power on the part of the British Parliament to pass a Statute destroying that trust.

"A kuestion may be asked: What happens when India becomes independent? The Crown disappears and the question of advising the Crown does not remain. Can independent India claim to inherit the prerogative rights of the Crown? For an answer to this question, one must look to the provisions of International Law relating to succession among States. Oppenheim admits that a succeeding State can inherit certain rights of the preceding State. From Hall's International Law, it would appear that among other things property and advantages secured to it by treaty can be inhereted by a succession State. India will be a succession State. Paramountcy is an advantage which is secured to it by treaty with the Princes. Independent India can, therefore, make a valid claim for the inheritance of paramountcy.

The conclusion is that the Indian States will continue to be in the same position when India becomes independent as they are now. They will be sovereign States to the extent they are, but they cannot be independent States so long as they remain under the suzerainty—as they must be, either of the Crown if India remains a Dominion or under the suzerainty of the succession State if India becomes independent. While the suzerainty remains, they can never be independent. The States may declare themselves independent. But they must realize that while the suzerainty lasts it must continue even when India becomes independent—India will not recognize their independence nor can a foreign State accord them the status of an independent State.

Merger Or Suzerainty

"The only way, by which the Indian States can free themselves from paramountcy, would be to bring about a mrger of sovereignty or suzerainty. That can happen only when the States join the Indian Union as constituent units thereof. The States' spokesmen ought to know this. But as they seem to have forgotten, it is necessary to remind them of what happened at the Round Table Conference. In the beginning, the States were not prepared to join the Federation. They agreed to join the Federation when they came to know that they could not escape from the clutches of paramountcy, by reason of the Butler Committee's view that paramountcy was paramount. This change of attitude was due to the realization that, to the extent the powers comprised in paramountcy were handed over to the Federation to that extent paramountcy would vanish. In fact, as most of us know, the Princes did raise the question with the then Secretary of State for India and asked him that the scope of paramountcy should be dissolved to the extent of the subjects included in list No. 1. The then Secretary of State had no answer to give and silenced the Princes by frowning upon them.

UNO Helpless

Apart from the attitude of the then Secretary of State, the fact remains that the Princes had seen the point that the only way for the dissolution of paramountcy lay in joining the Federation. The point remains as valid now as it was then. It would be wise on the part of the Indian States to follow that line and not to pursue the mirage of independence. The States should realise that their existence as sovereign independent States will not be worth five years purchase. It is in the interest of the Princes themselves, that they should join the Indian Union and become constitutional monarchs. Any Dewan who advises his Prince not to join the Union is really acting as the enemy of the Prince. The joining of the Federation will no doubt involve the introduction of responsible Government but it has this advantage namely, that the Union will guarantee to the Princes the rights relating to dynastic succession which is the most that a Prince can expect in these days.

To be independent and to hope to get recognition and protection from the U.N.O. is to live in one's own paradise. It is doubtful if the U.N.O. will give recognition to Indian States ignoring the claim by India of suzerainty over them. But even if that happens the U.N.O. will never grant any assistance to an Indian State against external aggression or internal commotion without insisting upon the States first introducing responsible Government within its area.

All these things are writ large on the wall. He who runs may read them. The Dewan who refuses to read them will no doubt share the fate which befalls all those who are blinded by their self-interest.

Whatever the choice the Indian States may make the duty of the people of India is clear. On their behalf, I would ask the Interim Government at the centre to take the following steps:—

(1) To notify to H.M.G. that the British Parliament has no right to pass any law abrogating paramountcy and that any clause to that effect in the forthcoming legislation conferring Dominion Status on India would be treated by the people of India as repugnant to their sovereignty and, therefore, null and void.

(2) To declare that the Government of India will never recognise any Indian State as sovereign independent State.

(3) To inform the U.N.O that admitting an Indian State which declares itself as sovereign independent State to the membership of the U.N.O. would meet the strongest objection from the people of India as a violation of the sovereign rights of the Union of India.

Of these the first is the most important and most urgent. If Great Britain abrogates paramountcy she will be ultimately committed to giving recognition to Indian States as sovereign independent States. It is, therefore, obvious that no time must be lost by the Interim Government in issuing a warning to H.M.G. against the course they intend to pursue in regard to paramountcy."—A.P.I.

PHONE: 8804

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3, ~~RACE COURSE~~ ROAD,

NEW DELHI.

27/3/47

Personal

My dear Sir,

I had a talk with Dr Ambedkar this evening, and I thought I should let you know immediately. I am going out on tour to Dhanbad tomorrow early morning & will be back till Sunday night; hence this note.

About the Punjab affair, Dr Ambedkar said that his definite advice to his followers in the Punjab was to keep out of the Ministry, and he had instructed his representative accordingly. The negotiations with two Sikh (Scheduled Caste) elected members had been offered two seats, but his latest information was that they had withdrawn from

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Dear Sirs

As regards the longer question, he seemed to be anxious to pick up the threads of the earlier discussions with you, and authorised me to keep in touch with you, if necessary. I thought I should keep you apprised before I left for Thailand. Dr Ambedkar would be here till Tuesday, the 15th April & would come back again in the middle of April in connection with the Minorities Advisory Committee meetings.

There were a few other matters which he was discussing. I shall mention them to you on my return.

Yours sincerely

Dr Nagendra

The Hon'ble Sardar
Vallabhai Patel

Copy of letter dated 14th October 1946 from Dr. B.R.Ambedkar to Hon'ble Sardar Vallabhbhai Patel.

Dear Mr. Patel,

Please refer to your letter of the 1st September 1946. When I read it, I did not think that it called for a reply except to refute some of the points you have raised therein. That is the reason why I did not hasten to reply immediately. But I am going abroad and don't know when exactly I would be returning. Under the circumstances, I feel I ought to send you a reply before my departure.

In your letter, you say that Mr. N.M. Joshi told you that I was anxious for a settlement with the Congress. I don't know what Mr. Joshi told you. I certainly never told Joshi that I was anxious for a settlement with the Congress and that he should therefore arrange for an interview with you. The truth is quite different. Our meeting has a history behind it. I should like to recount it in brief for your information as you do not seem to be aware of it.

On Sunday the 7th July 1946, members of the Scheduled Castes Federation staged a demonstration under the leadership of Mr. B.K.Gaikwad before the Cowasji Jehangir Hall where the A.I.C.C. was holding its session. They refused to go unless they saw Mr. Gandhi as they wanted to ask him some questions. Mr. S.K.Patil came out and told Mr. Gaikwad that as Mr. Gandhi was observing silence, he would arrange for a meeting of the leaders of the Scheduled Castes with Mr. Gandhi on some other day. On that assurance the demonstrators left. On Friday the 12th July, Mr. S.K. Patil saw me. He told me what had happened between him and the demonstrators on the 7th and asked me who would like to meet Mr. Gandhi. I told him that he had better ask Mr.B.K. Gaikwad the leader of the demonstrators. He asked me if I

was prepared to meet Mr. Gandhi or any member of the Congress High Command if a meeting was arranged. I said I would have no objection. On the 17th, Mr. N.M.Joshi met me and told me that he has been asked, obviously by Mr. S.K. Patil, to arrange a meeting between us and that as you were ill, would I be prepared to go to your place. I said I had no objection. In the evening Mr. Joshi phoned me that the meeting was fixed on the 18th at 9 P.M.

This is the genesis of our meeting. You will see I have taken no initiative in the matter. It would be futile for me to have done so. Even when the Congress was down and out it had not shown the wisdom to make a settlement with the Scheduled Castes and win their support to the cause of the country. How could I believe that the Congress installed on the Gadi would think of settling with Brokenmen? It is only a person who has lost all hope, or with no self-respect who could think of approaching the Congress in its present condition. There is really nothing wrong and nothing shameful for a leader of one party to approach the leader of another party for a settlement. Like a wandering minstrel, Mr. Churchill did go from country to country even to Russia to seek help for his country and I should do the same for the sake of the Scheduled Castes.

If one looks at it in the natural way as one ought to, there is no point in discussing who met whom and at whose instance. But as Congressmen and Congress newspapers have cultivated the habit of representing the approach to Congressmen by anybody who is not a Congressman for a settlement, as an act of surrender, one must in justice to oneself make it clear from where the initiative came.

Your reference to my quarrel with Mr. Gandhi is, to say the least, is, in my judgment, quite out of place. This is not the first time that you have known that I 'abuse' Mr. Gandhi. Whether you agree or not, I have reasons to be angry with him. I have written a whole book giving my reasons why I am opposed to Mr. Gandhi on the issue of the Scheduled Castes. I am prepared to take back my charges against Mr. Gandhi if he were to show that my facts and arguments are wrong. Many agents have been engaged to refute the allegations contained in my book. Unfortunately for Mr. Gandhi, they have all failed ignominously. You seem to think that I am the only one who 'abuse' Mr. Gandhi. I know hundreds who do the same. They include some of those who are in the inner circle of Mr. Gandhi's kindergarten and are occupying the posts of Executive Councillors in the present Government of India. The only difference between them and me is that they 'abuse' Mr. Gandhi privately and praise him publicly. My misfortune is that I have not learnt the art of double-dealing, say one thing in public and quite opposite of it in private. Since you have taken my attack on Mr. Gandhi to heart in a manner which shows that but for the 'abuse' there would have been a settlement, I must say that you think Mr. Gandhi is greater than the country. My view is different. I think the country is greater than the greatest man. You think to be Congressmen and to be nationalists are synonymous. I think a man can be a nationalist without being a Congressman. If you will forgive me, I will cite my own case. I am a greater nationalist than any Congressman and if on occasions I have not been able to present the full front of a nationa-

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list, it is because men like Mr. Gandhi have been stabbing me in the back by their opposition to the demand of the Untouchables for political safeguards.

As to the actual demands contained in my memorandum, I have gone beyond the stand I took at our meeting of the 18th July. I said I was prepared to have territorial separate electorates in place of communal separate electorates. In my memorandum, I have gone a stage further and set out a third alternative. I did that because I heard that in an interview between you and Mr. Joshi subsequent to our meeting, you told him that a settlement along that line had greater chances of success. If, inspite of this, you think there is no basis for a settlement, I am afraid I cannot help you.

That notwithstanding your disagreement with my proposals for a settlement you should have extended to me an invitation to see you, speaks for your goodness of heart. I am sure that it can serve no purpose. I must therefore decline it.

In case you care to write to me, I give below my address. I hope you are keeping fit.

Yours sincerely,
Sd.B.R.AMBEDKAR.

My address:

c/o Messrs. Thomas Cook & Sons,
Berkley Street,
LONDON, W.1.

9 9

1, Aurangazeb Road,
New Delhi, 18.10.1946.

Shri. S.K. Patil,
The Secretary,
Provincial Congress Committee,
B O M B A Y.

Dear Sir,

Under instructions from Hon. Sardar Vallabhbhai Patel, I am sending herewith a letter which he has received from Dr. B. R. Ambedkar, for your information.

Yours sincerely,

P.A. to Hon. Sardar
V.J. Patel.

Encl:

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H. M.

I am returning with thanks the enclosed. Toshi may speak to you but he is so angry with the tone of the letter. It is certainly not the language of a reasonable man.

Yours
18/10

NEW DELHI, 17th October, 1946.

My dear Joshi,

I am sending herewith a copy of a letter which I have received from Dr.B.R.Ambedkar. This letter belies the impression that you formed that his attitude had changed.

Yours sincerely,

(V.J. Patel).

N.M. Joshi, Esqr.,
Member, Central Pay Commission.

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BHIMRAO R. AMBEDKAR,
M.A., Ph.D., D.Sc., BARRISTER-AT-LAW,
~~MEMBER GOVERNOR GENERAL'S EXECUTIVE COUNCIL~~
~~22, PRITHVIRAJ ROAD~~
~~NEW DELHI~~

"Raj Graha"
Dadar,
Bombay 14

Dated 14th October 1946.

Dear Mr Patel,

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In your letter, you say that Mr.N.M.Joshi told you that I was anxious for a settlement with the Congress. I don't know what Mr.Joshi told you. I certainly never told Joshi that I was anxious for a settlement with the Congress and that he should therefore arrange for an interview with you. The truth is quite different. Our meeting has a history behind it. I should like to recount it in brief for your information as you do not seem to be aware of it.

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happened between him and the demonstrators on the 7th and asked me who would like to meet Mr.Gandhi. I told him that he had better ask Mr.B.K.Gaikwad the leader of the demonstrators. He asked me if I was prepared to meet Mr.Gandhi or any member of the Congress High Command if a meeting was arranged. I said I would have no objection. On the 17th, Mr.N.M.Joshi met me and told me that he has been asked, obviously by Mr.S.K.Patil, to arrange a meeting between us and that as you were ill, would I be prepared to go to your place. I said I had no objection. In the evening Mr.Joshi phoned me that the meeting was fixed on the 18th at 9 P.M.

This is the genesis of our meeting. You will see I have taken no initiative in the matter. It would be futile for me to have done so. Even when the Congress was down and out it had not shown the wisdom to make a settlement with the Scheduled Castes and win their support to the cause of the country. How could I believe that the Congress installed on the Gadi would think of settling with Brokenmen? It is only a person who has lost all hope, or with no self-respect who could think of approaching the Congress in its present condition. There is really nothing wrong and nothing shameful for a leader of one party to approach the leader of another party for a settlement. Like a wandering minstrel, Mr.Churchill did go from country to country even to Russia to seek help for his country and I should do the same for the sake of the Scheduled Castes.

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Your reference to my quarrel with Mr.Gandhi is, to say the least, is, in my judgment, quite out of place. This is not the first time that you have known that I 'abuse' Mr.Gandhi. Whether you agree or not, I have reasons to be angry with him. I have written a whole book giving my reasons why I am opposed to Mr.Gandhi on the issue of the Scheduled Castes. I am prepared to take back my charges against Mr.Gandhi if he were to show that my facts and arguments are wrong. Many agents have been engaged to refute the allegations contained in my book. Unfortunately, for Mr.Gandhi, they have all failed ignominously. You seem to think that I am the only one who 'abuse' Mr.Gandhi. I know hundreds who do the same They include some of those who are in the inner cirdle of Mr.Gandhi's kindergarten and are occupying the posts of Executive Councillors in the present Government of India. The only difference between them and me is that they 'abuse' Mr.Gandhi privately and praise him publicly. My misfortune is that I have not learnt the art of double-dealing, say one thing in public and quite opposite of it in private. Since you have taken my attack on Mr.Gandhi to heart in a manner which shows that but for the

'abuse' there would have been a settlement, I must say that you think Mr.Gandhi is greater than the country. My view is different. I think the country is greater than the greatest man. You think to be Congressmen and to be nationalists are synonymous. I think a man can be a nationalist without being a Congressman. If you will forgive me, I will cite my own case. I am a greater nationalist than any Congressman and if on occasions I have not been able to present the full front of a nationalist,it is because men like Mr.Gandhi have been stabbing me in the back by their opposition to the demand of the Untouchables for political safeguards.

As to the actual demands contained in my memorandum, I have gone beyond the stand I took at our meeting of the 18th July. I said I was prepared to have territorial separate electorates in place of communal separate electorates. In my memorandum, I have gone a stage further and set out a third alternative. I did that because I heard that in an interview between you and Mr.Joshi subsequent to our meeting,you told him that a settlement along that line had greater chances of success. If, inspite of this, you think there is no basis for a settlement, I am afraid I cannot help you.

That notwithstanding your disagreement with my proposals for a settlement you should have extended to me an invitation to see you, speaks for your goodness of heart. I am sure it can serve no purpose. I must therefore decline it.

In

In case you care to write to me, I give below my address. I hope you are keeping fit.

Yours Sincerely
B.R. Ambedkar

My address:

c/o Messrs Thomas Cook
and Sons
Berkley St
London W.1

Hon'ble Sardar Vallabhbhai Patel,
Member, Viceroy's Executive Council,
New Delhi.

17

Camp: Birla House,
Albuquerque Rd.,
New Delhi.
1st Sept. 48

Dear Dr. Ambedkar,

I have already acknowledged receipt of your letter of the 18th August. I am only today able to deal with it and I wish to be excused for the delay owing to pressure of work here. Allow me to assure you that I have given most anxious consideration to your proposals.

In the middle of July last, Shri N.M.Joshi met me and suggested that as you were anxious for a settlement with the Congress, it would be better if we could meet. You will remember that when you and Shri Joshi met met on the 18th July at my place, he suggested a formula, contained in the Sapru Report, to be taken as a basis for settlement. This formula proposes the continuance of panel elections, provided in the Poona Pact, with certain alterations. You were not in favour of revival of the system of panel elections, which had already disappeared by the expiry of 10 years period provided in the Poona Pact, on the ground that the Scheduled Castes were too poor to contest double elections. It was agreed that we should think over the matter and meet again at some other convenient date, as I was confined to bed at that time.

pk

You have now sent me a long memorandum proposing (1) Amplifications of, (2) Alterations in and (3) Additions to the Poona Pact. All the points in the memorandum will have to be carefully examined by the Advisory Committee which is to be appointed by the Constituent Assembly at its preliminary meeting in accordance with paras 19 and 20 of the Cabinet Delegation's statement of May 16.

Many points in the memorandum depend upon the nature of the constitution, and the distribution of powers, functions and finances between the various Sections, for instance, the Provincial constitutions will be settled by the Sections and the Congress will not be in a majority in Sections B and C. The formation of Group governments may restrict the scope of the Union Centre to very narrow limits and it may have no power to interfere with the Provincial and Group governments with reference to the Scheduled Castes.

On going through your memorandum, I feel that our approach to the whole question is different. The Congress aims at the assimilation of the Scheduled Castes into the general Hindu community and proposes to take all possible measures to ensure that end, while your present proposals indicate that you still intend to provide safeguards which would perpetuate

the separation of the Scheduled Castes from the general Hindu community.

Of course, I am always willing to meeting you and be convinced of any error of judgment the Congress may have made. No human institution can claim infallibility for itself. I can, however, give you this assurance that the Congress has never wished wilfully to damage the interests of the Scheduled Castes but I must not conceal from you the suspicion with which I and other Congressmen have viewed your activities. Your language has often been highly provocative and inflammatory and you have been reckless in your statements against the Congress and its great leader, Mahatma Gandhi. So far as I am aware, hardly any of the charges hurled by you against the Congress would bear impartial scrutiny.

If, therefore, you can convince me to the contrary, please do come. I am willing to listen and discuss. Naturally the Congress would be glad to enlist your great ability for the promotion of what must be and is common cause between you and the Congress.

Yours sincerely,

Dr. B.R.Ambedkar,
"Rajgraha",
Dadar, Bombay 14.

20

Camp: Birla House,
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1st Sept. 46

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23

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Yours sincerely,

Dr. B.R.Ambedkar,
"Rajgraha",
Dadar, Bombay 14.

Telegrams: CONGRESS

BOMBAY PROVINCIAL CONGRESS COMMITTEE

CONGRESS HOUSE
Vithalbhai Patel Road
Bombay-4

President: S. K. PATIL
Phone: { 42956 (Office)
41000 (Residence)

Dated 24th Aug. 1946.

My dear Sardarsaheb,

I have just received your letter dated the 22nd of this month which came by Air-mail. I had not forgotten about the draft reply to Dr.Ambedkar's Memorandum. One reason why I could not send it earlier was that I was out of Bombay for a couple of days and another reason was that I could not secure the copy of the fresh memorandum before this morning. I had the old copy with me but I wanted to compare the old with the new to find out if there was any important change between the two. I could get the copy from Mr. N. M. Joshi only this morning and I am sending you the draft as promised.

On comparison of the new Memorandum with the old I find that there is not much difference between the two except that the new one is a further amplification of the old one, the only other difference being that the percentage has been brought down from 51 to 45. I have not attempted a detailed reply since Dr. Ambedkar has raised many questions of details on which the Congress policy has not yet been formulated. Besides the details become comparatively of less importance in the absence of agreement on the main question of principles. Unless Dr. Ambedkar is prepared to come down to 20 per cent in a system of joint electorate it is no use discussing other details with him. I gather from Mr.Joshi that he has given Dr. Ambedkar an impression that the Congress would be prepared to discuss proposals on his showing his readiness to the principle of joint electorate with the stipulation of 20 % Harijan votes for a successful candidate.

We have been anxiously awaiting the announcement regarding the Interim Government. Things here are going on normally. The Hall collections will be closed in a week's time.

I hope you are keeping good health.

With kindest regards,

Yours sincerely,

Vallabhbhai

Encls.4*

Sardar Vallabhbhai Patel,
Camp: Birla House,
New Delhi.

* Encls: Copy of Dr.Ambedkar's first Memorandum.
Copy of Dr. Ambedkar's covering letter dated 4-8-1946.
Copy of reply to above dated 9-8-1946.
Copy of Dr. Ambedkar's second letter dated 12-8-1946.
Draft letter to Dr. Ambedkar.

Draft

Dear Dr. Ambedkar,

You must have got my letter dated _____ acknowledging the receipt of your Memorandum. I had promised in that letter that I would send my considered reply to the Memorandum in due course and here I am doing so.

Let me assure you that I have read your Memorandum with the care and attention that it deserves. The Memorandum consists of three parts namely:

(1) Amplifications of the Poona Pact,

(2) Alterations in the Poona Pact, and

(3) Additions to the Poona Pact.

I shall reply to each of these parts separately.

As regards amplifications of the Poona Pact, you have mentioned therein very many matters of details which will require careful consideration both by the Congress and Central and Provincial Governments. The whole scheme in your proposals moves round one central point, namely, the Poona Pact. As you are aware the Poona Patt has already run its course. The panel elections created by the Pact are now a matter of the past and so, I presume, the reservation of seats. In my opinion, the Pact was intended to be a prelude to a better understanding between Harijans and Caste Hindus. I am further of opinion that it will not be in the interests either of Harijans or of the Caste Hindus to perpetuate the conditions implicit in that Pact. For a friendly understanding between the two sections of the Hindu community in future, we must get away from this Pact and try to settle outstanding differences on an entirely new basis. I am sure that will conduce to a better and more lasting friendship between the two.

As regards representation in services, provision for higher education etc., I believe that these are matters capable of satisfactory adjustment provided the main question of

principle is settled once for all. In your scheme you want statutory safeguards to be created with a view to protect the interests of the Scheduled Castes people. I regard any statutory provision of this kind as prejudicial to the interests of Harijans themselves. Any reforms in this direction must be a matter of friendly, mutual understanding. But even then, these are all matters of detail and I do not expect any great difficulty in tackling them after the questions of principle are decided.

As regards part 2 of your Memorandum - namely, alterations in the Poona Pact - there again your central theme is the Poona Pact. If we insist on clinging to the Poona Pact and perpetuating it in the future constitution, I am afraid the remedy may prove to be worse than the disease. It is, therefore, difficult for me to subscribe to the principles embodied in this part of your Memorandum. I am opposed on principle to separate electorates, both communal and territorial, as proposed by you in the scheme. The Indian National Congress has always regarded this question as fundamental. We always take our stand on the principle of joint electorate. Considerable harm has already been done to this country as a result of separate electorates. It would be a folly of the first magnitude to give any fresh lease of life to separate electorates in any scheme of administration of a free India. You will, therefore, excuse me if I do not go into the details of your proposals regarding the advantages of separate electorates.

You have, however, suggested in your memorandum a third alternative, namely, joint electorates with a stipulation that a successful Scheduled Castes candidate must secure a certain percentage of scheduled castes votes. It is in regard to this alternative that I beg to make a few observations. If for a stipulated period of time, say 5 or 10 years at the most, it is considered necessary, mainly with a view to re-establish confidence among the scheduled castes people, to retain certain element of reservation

for scheduled castes candidates in a joint electorate, the Congress may reconcile itself to that position only as a temporary expedient. I must, however, say that the percentage which you have suggested in your scheme, namely, 45, is bound to defeat the purpose of the joint electorate. Such a high percentage must necessarily encourage tendencies of exclusiveness and separatism among the scheduled castes people with the result that we shall never be able to unite these two sections of the Hindu Community.

Under the arrangement of panel elections in the Poona Pact, a panel of 4 had to be elected for every scheduled castes seat. Reduced to arithmetical percentage, this meant that if a candidate could secure 20 per cent of the votes cast, he had no fear of being defeated. You will, therefore, see that even in the Poona Pact the margin of advantage was not more than 20%. As I understand from your scheme that you do not want the preliminary panel elections. But if the advantage conceded in this Pact was to be retained in any new scheme that may be devised for future, the scheduled castes will not be entitled to a margin of advantage higher than 20 %. Even if the status quo of the supposed advantage of the Poona Pact was retained, you cannot claim a percentage more than 20. If you can persuade yourself in your third alternative to reduce this percentage from 45 to 20, I personally believe - it will be a good basis for a friendly agreement and also for negotiations of other details in your scheme.

As regards part three of your scheme, namely, additions to the Poona Pact, these again are matters of detail although they are very vital details. Looking to the views that I hold on the question of principle I may be excused if I do not go into the details of your proposals in this part. Once again I may repeat that these details can be considered in an atmosphere of understanding and friendship, once we are able to settle the questions of principle.

I hope I have made myself sufficiently clear in the views that I have expressed on your Memorandum. I will be very happy if you can persuade yourself to reconsider the whole problem in the light of the suggestions I have made.

With kindest regards,

Yours sincerely,

BHIMRAO R. AMBEDKAR
M.A., Ph.D., D.Sc.
Barrister-at-Law.

"RAJGRAHA"
DADAR
BOMBAY-14.

Dated, 12th August 1946.

My dear Patil,

Please refer to your letter dated 9th August 1946 which is a reply to my letter of the 4th.

My letter and my memorandum were two quite separate and independent documents. The former was intended only for you, the latter for Sardar Patel. You could have sent the Memorandum to Sardar Vallabhbhai Patel without the letter if you felt that he should not see the letter. The contents of your letter, I confess, have puzzled me to some extent. I do not quite understand what is it to which you are taking exception. I have no desire to enter into any controversy. But I am sure I have not attributed to you anything which is not correct. I called you an intermediary with the best of intention of giving you credit for having taken part in the negotiations. But since you feel embarrassed, I have reverted to my original intention of sending the memorandum direct to Sardar Patel.

With regard to the actual proposals in my memorandum, since you do not propose to take any responsibility for negotiating a settlement, it is better to leave it to Sardar Vallabhbhai Patel and to the members of the High Command to say what they will accept and what they will & not.

I am glad to inform you that the figure 51 was an error in typing. It ought to have been 45 per cent. In the memorandum sent to Sardar Vallabhbhai Patel, I have given the correct figure. The memorandum sent to Sardar Vallabhbhai Patel is a much enlarged edition of the one sent to you. As I am keen on keeping you informed of what is happening I shall be glad to send you a copy of it if you care for it and return the old one.

With kind regards,

Yours sincerely,

B.R.Ambedkar.

S.K.Patil Esq.,
Bombay.

33

MEMORANDUM ON BEHALF OF THE SCHEDULED CASTES FEDERATION ON CONSTITUTIONAL SAFEGUARDS FOR THE SCHEDULED CASTES SHOWING WHAT AMPLIFICATIONS, ALTERATIONS AND ADDITIONS IT IS NECESSARY TO MAKE IN THE POONA PACT.

PART I - Amplifications of the Poona Pact.

(1) Representation in Services.

Clause 8 of the Poona Pact guarantees to the Scheduled Castes fair representation in Public services. It does not however define the quantum of representation should be defined. The demand of the Federation in this behalf is set out below :-

(a) The quantum of representation of the Scheduled Castes shall be as follows:-

(i) In the Central Services: In proportion to their population to the total population in India or British India as the case may be;

(ii) In the Provincial services: In proportion to their population in the province; and

(iii) In the Municipal and Local Board Services: In proportion to their population in the Municipality or Local Board area.

(b) Their right to representation in the services shall not be curtailed except by conditions relating to minimum qualification as to education, age, etc.

(c) The conditions prescribed for entry in services shall not abrogate any of the concessions given to the Scheduled Castes by the Government of India in their Resolutions of 1942 and 1945.

(d) The method of filling up the vacancies shall conform to the rules prescribed in the Government of India Resolutions of 1942 and 1945.

(e) On every Public Services Commission or a Committee constituted for filling ~~x~~ vacancies the Scheduled Castes shall have at least one representative thereon.

(2) Provision for higher education.

Clause 9 of the Poona Pact guarantees that an adequate sum shall be ear-marked for the ~~xxx~~ education of the Scheduled Castes. It does not define the quantum. The

Federation wants that the quantum should be defined. The Federation demands :-

(1) Government shall accept financial liability for secondary and university education of the Scheduled Caste students as well as for their advanced education in foreign countries.

(2) The responsibility for finding money for foreign education of the Scheduled Castes shall be the responsibility of the Central Government and the Central Government shall make a provision of Rupees ten lakhs per year in its annual budget in that behalf.

(3) The responsibility for finding money for secondary and university education of the Scheduled Castes in India shall be upon the Provincial Government and that the different provinces shall make a provision in their annual budgets for the said purpose in proportion to the population of the Scheduled Castes to the total budget of the Province.

(4) These special grants shall be the first charge on the budget of the Central Provincial Governments.

(5) That these special grants must be without prejudice to the rights of the Scheduled Castes to share in the expenditure incurred by the Provincial Government for the advancement of primary education for the people of the Province.

(3) Statutory Sanction for safeguards.

Not all the provisions of the Poona Pact found their place in the constitution. Only the provisions relating to seats and electroates formed part of the Statute. The rest of the provisions were left to gentleman's agreement. The Federation demands that every safeguard shall form part of the constitutional law of India and shall not be left to gentleman's agreement or to convention.

(4) Changes in safeguards.

Clause 6 of the Poona Pact provides that the system of representation of the Scheduled Castes by reserved

seats shall continue until determined by mutual consent between the communities concerned in the settlement since it is necessary to make provision to amend, alter or abrogate the safeguards granted to the Scheduled Castes and since there is no safe method of ascertaining the will of the two communities, the Federation proposes that the following be substituted for clause 6 of the Pack:

(i) Any alteration in the safeguards shall be made by the Central Legislature by a special Resolution passed in that behalf;

(ii) No such resolution shall be moved:

(a) unless 20 years have elapsed after the constitution comes into operation;

(b) unless there has been six months' previous notice;

(c) unless it is a general one affecting the safeguards provided for other communities as well.

(iii) No such resolution shall be considered except by a new legislature elected after notice of the Resolution has been given in the previous legislature.

(iv) No such Resolution shall be deemed to have been passed:

(a) unless it has been passed by a majority of two-thirds of the members of the House present and voting; and

(b) unless three-fourths of the members belonging to the Scheduled Castes present at the meeting have voted in favour of the resolution.

PART II - ALTERATIONS IN THE POONA PACT.

(1) Quantum of representation in the Legislature.

1. The quantum of representation given to the Scheduled Castes by the Poona Pact is set out in clause (1) of the Poona Pact. The proportion set out in the Pact was fixed out of the balance of seats which remained after (i) the share of other communities had been taken out; (ii) after weightage to other communities had been allotted and (iii) after seats had been allocated to special interests. The Federation regards this allotment of seats to the Scheduled Castes as unjust. The loss due to seats taken out as weightage

and seats given to special interests ought not to have been thrown upon the Scheduled Castes. The allotment of those seats had already been made by the Communal Award long before the Poona Pact. It was therefore not possible to rectify this injustice.

2. The Federation demands that in distributing seats the following principles shall be accepted:-

(a) Every community including the Scheduled Castes shall be given representation in proportion to its population

(b) Weightage shall not be given to any particular community.

(c) Weightage where it becomes necessary to reduce a huge communal majority to reasonable dimensions shall come out of the share of the majority and shall be divided among all minor communities in inverse proportion to their (i) economic position, (ii) social status and (iii) educational advance.

(d) There should be no representation to special interests. But if the same is allowed it should come out of the share of representation given to that community to which the special interest belongs.

(2) The Method of Election.

1. The method of election to the seats allotted to the Scheduled Castes is set out in clauses (2) to (4) of the Poona Pact. It provides for two elections (i) Primary election and (ii) Final Election. The primary election is by a separate electorate, of the Scheduled Castes. It is only a qualifying election and determines who is entitled to stand in the final election on behalf of the Scheduled Castes for the seats reserved to them. The final election is a joint electorate in which both caste Hindus and the Scheduled Castes can vote and the final result is determined by the joint vote.

2. Clause (5) of the Poona Pact has limited the system of Primary election to ten years which means that any election taking place after 1947 will be a system of joint electorates and reserved seats pure and simple.

3. The result of the last election has proved how the Scheduled Castes can be completely disfranchised under the existing system. Things will be much worse under the system of joint electorates and the reserved seats which will hereafter become operative under the terms of the Poona Pact. The main reason is to be found in the enormous disparity between the voting strength of the Scheduled Castes and the Caste Hindus in most of the constituencies. The disparity is as great as one in fivehundred. As the Simon Commission has observed the devise of reserved seats ceases to be workable where the protected community would constitute an exceedingly small fraction of any manageable constituency. This disparity cannot be removed. It will remain even under adult suffrage. That being the case, the Federation feels that a safer method must now be found.

4. The Federation is opposed to both:

(i) the continuance of the Primary election even if it was conceded; as well as

(ii) Joint electorates pure and simple.

The Federation insists that any scheme of election for the representation of the Scheduled Castes must be fool-proof and knave-proof, and must give the Scheduled Castes true representation in the Legislatures.

5. There are the following three methods to choose from

(i) separate communal electorates;

(ii) Separate territorial electorates;

(iii) Joint electorates with the reservation that a successful candidate must have secured a certain percentage of Scheduled Caste Votes.

6. The Federation prefers the system of separate electorates for the Scheduled Castes. The Federation is not at all impressed by the arguments urged against separate electorates. The opposition to separate electorates fails to make the distinction between the demand for separate electroates by a majority community and the demand for separate electorates by a minority community. A majority co

community being in a position to rule must, if the minority insists, must submit itself to the wishes of the minority community. Otherwise, the Government by the majority will be government without the consent of the governed. The majority community can be forced to secure the consent of the minority only through a system of joint electorates. The position of the minority community is quite different. Even if it has to submit to the rule of the majority it must retain to itself the freedom to protest against the misrule of the minority by the Government of the majority community. This means that if it thinks that separate electorates alone will ensure its freedom to protest it is entitled to demand separate electorates.

The Federation contends that the correct view is to treat the electoral system as a mechanism devised for protecting the minority against the majority. If this principle is accepted, two conclusions automatically follow:-

(i) The system of electorate being a devise for the protection of the minority the issue whether the electoral system should be the joint electorate or separate electorates must be left to the wishes of the minority.

(ii) The majority being pre-destined to rule can have no voice in the determination of the system of electorates. If the minority wants joint electroates the majority must submit itself to joint electorates. Only the minority when it decides to have separate electorates for itself can force separate electorates upon the majority. In other words, the majority must look to the decision of the minority and abide by it.

Following this principle the Federation contends that the Scheduled Castes being a minority community are entitled to determine the system of electorates. The Federation which represents the Scheduled Castes throughout India can say without fear of challenge that they want separate

electorates. If there be any doubt the Federation is quite prepared for a f referendum of the Scheduled Castes to determine the issue.

7. The contention of the Hindus that the Scheduled Castes are Hindus and therefore cannot have separate electorates is a meaningless contention. It omits to take into account the fact that the electoral system is really a mechanism for the protection of a minority community and has nothing to do with religion. If any evidence of this is necessary one could refer to the case of the Europeans, Anglo-Indians and Indian Christians who are all one by religion yet each have separate electorates.

8. Another objection to separate electorates is that they prevent solidarity between the Untouchables and the Caste Hindus. This objection is also without any substance. The elections take place once in five years. It is difficult to understand how social solidarity between the Hindus and the Untouchables can be promoted by devoting one day out of five years to joint voting, if for the rest of the five years they are leading severely separate lives ? Similarly, it is difficult to understand how one day devoted to separate voting in the course of five years make greater separation than what already exists or contrarywise how can one day in five years devoted to separate voting prevent those who wish to work for union from carrying out their purposes ? To make it concrete: How can separate electroate for the Untouchables prevent intermarriage or interdining being introduced between them and the Hindus? It is therefore puerile to say that separate electorates of the Untouchables will perpetuate separation between them and the Hindus if the Hindus desire to put an end to it.

9. The third objection urged against separate electorate is that they create an anti-national feeling. This again is an argument which is contrary to experience. The Sikhs have separate electorates. But no one can say that the Sikhs are anti-national. The Muslims have had separate electorates right from 1909. Mr. Jinnah has been elected

by separate electorates. Yet, Mr. Jinnah was the apostle of Indian Nationalism up to 1939. Obviously, nationalism and anti-nationalism have nothing to do with the electoral system. They are the result of extra-electoral forces.

10. The Federation does not feel bound to withdraw its demand for separate electorates especially when the arguments advanced against them have no force in them. Knowing fully well that what is against separate electorate is mere sentiment and prejudice but believing that even prejudice has to be respected if agreement is to be reached, the Federation is prepared to accept the second alternative namely, Territorial separate electorates in constituencies in which seats are reserved for the Scheduled Castes subject to two conditions:-

(i) No other community is allowed to have separate communal electorates.

(ii) In the unreserved constituencies the Scheduled Castes will have the right to vote and the right to stand.

11. With regard to the third alternative, the Federation thinks it unnecessary to consider the same and for the following reasons:-

(a) Administratively, it would be difficult to work. If it fails to work - its workability depends a great deal upon the honesty, integrity and impartiality of the polling staff - it would fail to ensure the election of true representatives of the Scheduled Castes which is what the Federation wants.

(b) The second alternative of Territorial separate electorates should suffice since:

(i) The system gives the Scheduled Castes the right to send to the Legislature men who are their true representatives;

(ii) It does not politically segregate the entire community of the Scheduled Castes from the general community. Indeed, only a very small part is segregated.

12. The Federation will, however, be prepared to

consider the proposal if that is the only way by which peace can be established between the Congress and the Federation if it is agreed:-

(i) That this system will be applied to all minority communities;

(ii) That the successful candidate is required to secure not less than fityone per cent of the total votes of Scheduled Castes polled in the election or such other proportion as is fixed in the case of other communities.

(iii) That as a compensation for giving up their right to separate electorates the quotam of seats as determined by the Poona Pact is increased by fifty. Of these fifty, twenty-five shall be distributed among the provinces, 25 shall be added to their quota in the Central.

(iv) In the unreserved constituencies the Scheduled Castes shall be given the right to vote and the right to stand.

13. The system of election agreed upon for Central and Provincial Governments shall also apply to the representation of the Scheduled Castes in the Municipalities and Local Boards.

PART III - ADDITIONS TO THE POONA PACT.

(1) Representation in the Executive.

1. The Poona Pact made no provision for the representation of the Scheduled Castes in the Executive. This omission was due to two reasons : Firstly, it was due to the fact that at the time when the Poona Pact was made no community was guaranteed by law a specific quantum of representation in the Executive. Secondly, the representation of the communities in the Executive was left to convention which the Governor by his Instrument of Instructions was required to

see observed. Both these circumstances having been changed, the Scheduled Castes Federation demands that the quantum of representation in the Executive should now be fixed and should be as follows:-

(a) In the Centre:

A minimum of two members in the Central Government. If the total number goes beyond 14 the number shall be raised proportionately.

(b) In the Provinces:

(i) A minimum of two Ministers in Bombay, Madras, U.P., Bengal and C.P.

(ii) A minimum of one Minister in Assam, Orissa and the Punjab.

2. Agricultural Settlements for the Scheduled Castes.

The Untouchables have no future so long as they are made to live in the Ghettos in complete subordination of the caste Hindus. The real and effective way of liberating the Untouchables is to form separate settlements for them. For this purpose, the Federation propose that the following provision should be made:-

(i) There shall be a Settlement Commission under the new Constitution to hold uncultivated lands belonging to the State in trust for settlements of the Scheduled Castes in separate villages;

(ii) The Central Government shall set apart annually a fund of Rs.5 crores for the purpose of promoting the scheme of settlement.

(iii) That the Commission shall have the power to purchase any land available for the said purpose.

3. Protection of the Scheduled Castes in Indian States.

Under the new Constitution Indian States would be part of British India. It is necessary that the new Constitution of United India should provide safeguards for the Scheduled Castes not merely to those residing in British India but also to those residing in Indian States. The Federation therefore demands that it shall be agreed that:-

" All safeguards provided for the Scheduled Castes in British India shall be extended to the Scheduled Castes in the Indian States. Provision for such safeguards in the Constitution of an Indian State shall be a condition precedent for its admission into the Union Centre. "

B.R. AMBEDKAR.

Bombay,
9th August '46.

My dear Dr. Ambedkar,

You will kindly excuse me if I am a little late in replying to your letter of the 4th inst. Iffind from your letter that you seem to imagine that my meeting with you was at the instance of somebody of the Congress High Command and what I talked to you constituted the views of the Congress Leaders. Please allow me to disabuse your mind of these misconceptions. Neither Sardar Vallabhbhai Patel nor anybody else from among the Congress leaders had asked me to see you for a political settlement. If I came to you and made certain suggestions for easing the political situation, please believe me that it was done so entirely on my own initiative. I can exactly tell you what happened.

When Shri N.M. Joshi had to go to Delhi after your meeting with Sardar Vallabhbhai Patel, he was anxious to keep the talk between you and Sardar going until some ~~kind~~ kind of happy settlement was arrived at. He expressed his desire to me that I should keep the continuity of these talks in his absence. I fully shared the views of Shri N.M. Joshi and I also thought that something should be done in bringing about friendly relations between you and the Congress Leaders. Shri N.M. Joshi had given me a report of your talk with Sardar. Taking my cue from it I approached you and made the suggestions that I did entirely on my own responsibility. I then thought and I still think that if there is some kind of friendly settlement on the political issue such as representation of the Scheduled Castes in the Legislatures and the method of that representation, other issues like bettering the lot of Harijans, educationally and socially, will be easily tackled. If the main issue was once settled, other small difficulties could easily be got over. Please, therefore, remove from your mind the ~~idea~~ idea that I acted as an intermediary on behalf of Sardar or anybody else. After having said this, I have now to say something about the memorandum which you have prepared after such a careful thought and close study of your requirements. I am afraid the memorandum as it stands can hardly be a basis for political negotiations between you and the Congress at this stage. You have suggested 3 methods to choose from :

(i) Separate communal electorates;
(ii) Separate territorial electorates;
(iii) Joint electorates with reservations of seats with an additional condition that the successful candidate must secure a certain percentage of Scheduled Caste votes.

You know it very well that the Congress will never be ready to consider the first two methods. The 3rd method is the only method which is, in my view, a good basis for friendly arrangement. But I find from your memorandum that the percentage that you require is fiftyone. An astute constitutional lawyer as you are, you will yourself realise that this is another name for separate communal electorate. With your permission I will not elaborate on this issue since it is so patently clear.

Under these circumstances, I did not hand over your memorandum to Sardar lest it should lead to more misunderstandings. In fairness to Sardar, along with your memorandum I have to show him your letter also. This is bound to create misunderstanding in his mind about me also. I am sure you could have never intended that. Besides, Sardar had to go to Wardha the very next day and I had no time to have a detailed talk with him on this subject. I have, therefore, held the memorandum with me. If you still desire that I should deliver it to Sardar without your covering letter I would do so. But I am afraid that it would not be a good

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beginning of friendly negotiations.

I need hardly assure you that I have great respect and admiration for you. It is my earnest desire and also m prayer that you must be drawn very near to the Congress. With you and your people on our side, I am sure, our political struggle will take a new turn and our advance to our goal will be much faster. My services are always at your disposal whenever you need them for any useful purpose. I hope you will appreciate my position and guide me accordingly.

With kindest regards,

Yours sincerely,

S.K.Patil.

Dr. B.R.Ambedkar
M.A., Ph.D., D.Sc.
Barister-at-Law.
"Rajgraha",
Dadar, Bombay -14.

BHIMRAO R. AMBEDKAR
M.A.,Ph.D.,D.Sc.
Barrister-at-Law.

"RAJGRAHA"
DADAR
BOMBAY -14

Dated 4th August 1946.

Dear Mr. Patil,

When you met me on the 27th July 1946 you told me that the Congress High Command including Mr. Gandhi and Mr. Vallabhbhai Patel were most anxious to come to a settlement with the Scheduled Castes Federation on the question of the political and other safeguards for the Scheduled Castes in the future constitution of India. At that meeting you told me that the Congress High Command have no objection to agree to the demand of the Federation for the provision of the educational grants etc., for the Scheduled Castes. On the issue of electoral system, you mentioned a proposal which you said was most likely to be acceptable to the Congress and that if the Federation agreed to it, the Congress would be prepared to give some more seats than have been allotted to the Scheduled Castes under the Poona Pact.

2. Let me say that I am as anxious as the Congress High Command to have a settlement with the Congress. It is this issue which has brought about the present strained relations between the Congress and the Federation and which has made it impossible for the two organizations to co-operate and to work together for common purposes.

3. I have considered the question of how best to proceed in the matter and I have come to the conclusion that the proper method would be for me to send a memorandum setting out the proposals of the Federation which may be taken as a basis for discussion.

4. In preparing this memorandum I have taken the Poona Pact as the basis and have set out the proposals of the Federation under three separate parts. Part I contains proposals for the amplification of the Pact, Part II contains proposals for alternations and Part III contains proposals for the incorporation of additional terms.

5. It is unnecessary for me to make any apology for dealing with the matter at some length. As you know, the Poona Pact was arrived at in circumstances of the greatest hurry. There was no time to consider all the questions that vitally affect the Scheduled Castes.

Many questions were left out of consideration. Those that were taken into account were not subjected to close examination. Others were only referred to in general terms without filling in the necessary details. The Federation wants that these defects in the Poona Pact must now be remedied.

6. I am sending this memorandum to you to be forwarded to Sardar Vallabhbhai Patel. At one time, I thought of sending it to him. But as I do not know his address and as you have acted, on his behalf as an intermediary, it is just as well xx to send it to you. The matter is very urgent from my side and I shall be glad to know what move the Congress proposes to make in arriving at early settlement.

With kindest regards,

Yours sincerely,
B.R.AMBEDKAR.

S.K.Patil Esq.,
President,
Bombay Provincial Congress Committee,
Bombay.

NOTE ON THE MEMORANDUM OF DR. B. R. AMBEDKAR RELATING TO AMPLIFICATIONS, ALTERATIONS AND ADDITIONS TO BE MADE TO THE POONA PACT.

GENERAL: 1. All the points in the memorandum will have to be carefully examined by the Advisory Committee which is to be appointed by the Constituent Assembly at its preliminary meeting in accordance with Paras 19 & 20 of the Cabinet Delegation's statement of May 16th.

2. Many points in the memorandum depend upon the nature of the Constitution and the distribution of powers, functions and finance between the various parts. For instance, the provincial constitutions will be settled by the Sections and the Congress will not be in a majority in Sections B & C. The formation of Group Governments will restrict the scope of the Union Centre to very narrow limits and it may have no power to interfere with provincial or group governments with reference to the Scheduled Castes.

PART I.

(1) Representation in Services:

(a) The expression "fair representation in Public Services" contained in the Poona Pact has to be interpreted as generously as possible, but in the light of actual needs and circumstances. If the principle of representation according to proportion of population is accepted for the other minorities, there should be no objection to the same principle being followed in the case of the Scheduled Castes also. The Congress cannot undertake to advocate the extension of communal or special representation to Municipal or Local Board Services in which it does not obtain at present. It will, however, be prepared to take all measures necessary to eliminate all special disabilities and difficulties that may exist at present in the way of the members of the Scheduled Castes entering these services on equal terms with others.

(b), (c), & (d). They are generally acceptable.

(e) It is not possible to include a representative of the Scheduled Castes on every Public Service Commission or Committee constituted for filling vacancies. These commissions and committees cannot be constituted on a communal basis, but as such commissions and committees will be bound by the Constitution and the Laws, the representation

of any community in the services will not depend upon the composition of the commission or committee.

(2) Provision for Higher Education:

(i) Every provincial government accepts financial liability for secondary and university education of all students to the extent that the cost of such education is met from the provincial revenues. There is a clear case for a generous provision of special scholarships for Scheduled Caste students. The number of such scholarships and the manner of their award must obviously depend upon the provincial governments and their finances. They cannot be laid down in any constitution.

(ii) If the Central Government in the future constitution has the responsibility of financing the foreign education of Indian students, the Scheduled Castes will certainly be entitled to a fair share. It is however not possible to accept any arbitrary amount in advance.

(iii) The secondary schools and colleges must be open to the Scheduled Castes and it may be possible to reserve a certain number of seats till the Scheduled Castes catch up with the rest of the population. It has already been admitted that a certain number of special scholarships may be provided for Scheduled Castes for Secondary and University education. It will neither be possible nor desirable to have separate secondary schools or colleges for the Scheduled Castes and therefore there is no meaning in the suggestion that a provision in the annual budget in proportion to the population of the Scheduled Castes should be set apart for this purpose. The aim should rather be that the number of students in the secondary schools and colleges belonging to the Scheduled Castes should come up to the population ratio as early as possible.

(iv) It is not expected that there will be any such thing as a first charge on the Central or Provincial revenues.

(v) This has been dealt with in the reply to (iii).

(3) Statutory Sanction for Safeguards:

It is obvious only those provisions can be inserted in the Constitution which are justiceable. These will consist of fundamental rights including the non-recognition of untouchability in any form and representation in the legislatures. Any attempt to embody the other terms like educational grants in the constitution will in the long run

hurt the Scheduled Castes themselves. It is hoped that the next few years will see a big expansion in the social services and industrial development. It is common ground that the Scheduled Castes should have such opportunities as will enable them to rise from their present depressed position to the level of the rest of the community. Continuous propaganda and peaceful political pressure are the only means for ensuring the Scheduled Castes their due share in these fields. The Congress will strive its best to carry out the gentleman's agreement in these matters to the fullest possible extent.

(4) Changes in Safeguards:

To the extent that the safeguards are incorporated in the constitution, any change in them will have to be made only through the procedure laid down for changing the constitution. This is bound to be a very elaborate affair as hasty changes cannot be permitted in a free Indian constitution. Till the general procedure for changing the constitution is settled, it is not possible to discuss whether further restrictions should be laid down with reference to the special safeguards for the Scheduled Castes.

PART II.
Alterations in the Poona Pact.

(1) Quantum of representation in the Legislature:

(i) The whole question of separate electorates and weightage will have to be discussed in the Constituent Assembly.

(ii) If there is to be any kind of special representation, the principles laid down in (a) & (b) are reasonable. The proposal in (c) cannot possibly be accepted. (d) is unreasonable, as representation of special interests, if it is given at all, must be presumed to be in the interest of the community as a whole including the Scheduled Castes. No special interest can exclusively belong to any community.

(2) Method of Election:

The assumption behind para 3 is baseless. It cannot be admitted that the Scheduled Castes have not been able to send competent representatives under the Poona Pact. It is the very purpose of joint electorates to bring the communities together and in the case of the Scheduled Castes, their identification and assimilation with the

general body of the Hindus was one of the declared objectives of the Poona Pact. The argument of this para is further vitiated by the assumed disparity of voting strength. Even at present, the Scheduled Castes have got considerable voting strength in areas where their population is considerable. If adult franchise becomes the basis of the new constitution, the voting strength of the Scheduled Castes will be in exact numerical proportion to their population.

(4) The term "true representation" merely begs the question. That the Scheduled Castes form the weakest part of the Hindu Community may be admitted, but any argument based on the assumption that they are entirely separate from the Hindus and form a distinct and homogeneous community of their own cannot be acaepted as valid.

(5) & (6) The Congress is altogether opposed to separate electorates for any community and will therefore not accept either separate communal electorates or separate territorial electorates for the Scheduled Castes. The only other scheme is that of joint electorates with reservation of seats. If it is remembered that there will be adult franchise and that voting will have to take place in almost every village, any provision that a successful candidate should have a certain percentage of Scheduled Castes' votes will involve the maintenance of separate electoral lists, separate voting and elaborate measures for counting and calculation. In the process, many of the advantages of joint electorates will be lost. In view of the increase in voting strength that will accrue to the Scheduled Castes from the adoption of adult suffrage, simple reservation in plural constituencies combined with some system of cumulative voting or proportional representation must be adequate protection to the Scheduled Castes.

(7),(8),(9),(10),(11) & (12). The contentions of these paragraphs cannot be accepted and there is no use in entering into a controversy regarding them as in these matters there is a fundamental difference in outlook between the Congress and Dr. Ambedkar.

(13)- Clauses IV,V,VI & VIII. Will be sympathetically considered. Clause IX is implicit in any scheme of joint electorate with reservation.

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If any constitutional provision is to be made regarding communal representation in the Executive, the representation of the Scheduled Castes also will be duly considered. But any such provision will be undemocratic and is not likely to be accepted by the Congress.

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Where there are large blocks of uncultivated land, the formation of agricultural settlements for the Scheduled Castes may be encouraged. But it is obviously unrealistic to contemplate the removal of a majority of the Scheduled Castes living in the villages to any distant settlements. Their position will have to be bettered by social and economic measures like compulsory primary education, minimum wages and tenancy legislation. It should also be remembered that the present classification of the Scheduled Castes is arbitrary to a considerable extent and there are many castes of landless agricultural labourers whose claims for participation in any scheme of agricultural settlements will have to be duly considered. It is doubtful whether, under the new constitution, the Union Government will have any powers in the matter. The setting apart of a special amount will depend on the financial resources allotted to the Centre.

(3) Protection of the Scheduled Castes in Indian States:

The Congress will naturally like that the Scheduled Castes should have in the Indian States the same safeguards as in British India. But whether it will be possible to make their acceptance a condition precedent for the admission of an Indian State into the Union is a political issue on which no commitment can be made at this stage.

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By Airmail.

Camp: Birla House,
New Delhi.
22nd Aug. 46.

My dear Patil,

You promised to send me a draft reply to Dr. Ambedkar's memorandum after consulting Shri N.M.Joshi about the matter. You seem to have forgotten about it. It would not be wise to delay this matter inordinately.

We have fixed the Working Committee meeting here on the 27th and I propose to give him a reply before that date.

I hope Bombay affairs are running smoothly.

Yours sincerely,

Shri S.K.Patil,
Bombay.

Tele { Gram — Sevak
Phone — 6641

HARIJAN SEVAK SANGH
Kingsway, Delhi.

તા- ૨૫/૮/૪૬-

પ્રિય ભરૂચવાળા —

આંજેઠ કુરેશા પણ પુરો વંચાઇ ગયો- તેની સાથે મારો કુટ કરેલો નકામો છે-

૧ ન્યાં મોટી ૨૦૨૩ રોકડા કાસ્ટ નામનું કુટેલી, ત્યાં આંજેઠ કર મજુરી કરેલી- પૈસા નકકા ને મહેરબાની ૨- આમન કરો, તેમ નકરો, તો મહને બીજુ ૫૦ સોરો આપો— ૨૫ મોંઘા ભાવનાં અને ૨૫ સોંઘામાં— કોના ભાવનાં દિવાળી !!

૩- દેશી રાજ્યોના નરિજનોમાં પણ પ્રેવાના માટેનુ જદાજા નકરો મકવાનોથી ગામમાં પેસવાના મોંસા, ત્યાં ના પરેલ ને ઘેર ઉના પાણી મુકાવો, તેવા વાત છે. તેને ચાકરો ના બોલો દેશીઓ તો ખાવું નહીં- મોંમાં પડ્યા પછારાડી ઉઠીને છે.

આપણામાં વિનંતી કરવા જેવું

Tele { Gram —Sevak
Phone—6641

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HARIJAN SEVAK SANGH

Kingsway, Delhi.

Delhi 19-8-46.

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1. ~~Congratulations to Gokhale Hall for ministership.~~

2.

Page 1, Part I, Para E-

Pub. Serv. Commn. - How can you have one seat, if the Commn consists of three only, as is usual?

Page 2, para 1

Higher Edn. - If Govt. accepts financial liability for Dep. classes why Std. it not accept for all? And even for foreign scholarships?

If proportional Edul expenditure be insisted upon for D. C., then all backward classes can claim it - First charge?

Page 2, No. 3, para 1. - Gentlemen's agreement Shd. be put on Statute.

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Page 3 — ~~Para~~ No. 4, para (b)

3/4 majority of Dep-classes necessary for any change ?

Page 4, Part 2nd, para 2, part (c)

Weightage to be given to whom ?

Page 5 — Method of Election.

1 Para 3, 2nd line

Disfranchised ??

1 in 500 ? Nonsense

D.C. to Caste Hindus.

Simply Quadratic Proportional Rep is an exceedingly small fraction of any main Constituency

"Fool-proof & Knave-proof"

Page 8, line 2 to 7 of para 9.

How Separate Electorate for D.C. prevent inter marriage &c. &c. &c being introduced between the two ? Pleader ?

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15th Aug. 46.

Dear Dr.Ambedkar,

On my return from Wardha yesterday afternoon, I receiv-ed your letter of the 12th inst. along with your memorandum. This is just to acknowledge its receipt and a considered reply will be sent to you, in due course. I am going to Poona day-after-tomorrow and I am very busy at present.

Yours sincerely,

Dr. B.R.Ambedkar,
"Rajgrah",
Dadar.

BHIMRAO R. AMBEDKAR
M.A. Ph.D. D.Sc.
BARRISTER-AT-LAW.

"RAJGRAHA"
DADAR
BOMBAY-14.

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Dated, 12th August 1946

Dear Sir Patel,

I learn from Mr.N.M.Joshi that after our meeting on the 18th July 1946, he had seen you and you both discussed what further progress could be made in the matter of settling the dispute between the Scheduled Castes Federation and the Congress over the question of political safeguards for the Scheduled Castes. He conveyed to me your proposal as an alternative to mine which I had placed before you and asked me to take up the matter for further discussion. I told him that I will be glad to do so. Accordingly, I have prepared a full and complete memorandum on the subject.

2. In preparing this memorandum I have taken the Poona Pact as the basis and have set out the proposals of the Federation under three separate parts. Part I contains proposals for the amplification of the Pact, Part II contains proposals for alterations and Part III contains proposals for the incorporation of additional terms.

3. It is unnecessary for me to make any apology for dealing with the matter at some length. As you know, the Poona Pact was arrived at in circumstances of the greatest hurry. There was no time to consider all the questions that vitally affect the Scheduled Castes. Many questions were left out of consideration. Those that were taken into account were not subjected to close examination. Others were only referred to in general terms without filling in the necessary details. The Federation wants that these defects in the Poona Pact must now be remedied.

4. With regard to the system of electorates I have expressed my

view

BHIMRAO R. AMBEDKAR
M.A., Ph.D., D.Sc.
BARRISTER-AT-LAW.

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"RAJGRAHA"
DADAR
BOMBAY-14.

view on your proposal which is set out as a third alternative in my memorandum. But I have not excluded the consideration of separate electorates. If you have an open mind I hope to convince you that they are not so bad as it is generally made out.

5. I should like to know your reactions to my memorandum and shall be prepared to discuss with you the points set out in it if you so desire. In the meantime, I shall be glad, if you let me have a line acknowledging the receipt of this memorandum.

Yours Sincerely
B R Ambedkar

Sardar Vallabhai Patel,
Bombay.

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MEMORANDUM ON BEHALF OF THE SCHEDULED CASTES FEDERATION ON CONSTITUTIONAL SAFEGUARDS FOR THE SCHEDULED CASTES SHOWING WHAT AMPLIFICATIONS, ALTERATIONS AND ADDITIONS IT IS NECESSARY TO MAKE IN THE POONA PACT.

By

B.R. Ambedkar.

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MEMORANDUM BY Dr. B.R.Ambedkar ON BEHALF OF THE SCHEDULED CASTES FEDERATION ON CONSTITUTIONAL SAFEGUARDS FOR THE SCHEDULED CASTES SHOWING WHAT AMPLIFICATIONS, ALTERATIONS AND ADDITIONS IT IS NECESSARY TO MAKE IN THE POONA PACT.

PART I - AMPLIFICATIONS OF THE POONA PACT.

(1) Representation in Services.

Clause 8 of the Poona Pact guarantees to the Scheduled Castes fair representation in Public services. It does not however define the quantum of representation. The Federation wants that the quantum of representation should be defined. The demand of the Federation in this behalf is set out below:-

(a) The quantum of representation of the Scheduled Castes shall be as follows:-

(i) In the Central Services; In proportion to their population to the total population in India or British India as the case may be;

(ii) In the Provincial Services: In proportion to their population in the Provinces;

(iii) In the Municipal and Local Board Services; In proportion to their population in the Municipality or Local Board area.

(b) Their right to representation in the services shall not be curtailed except by conditions relating to minimum qualification as to education, age etc.

(c) The conditions prescribed for entry in services shall not abrogate any of the concessions given to the Scheduled Castes by the Government of India in their Resolutions of 1942 and 1945

(d) The method of filling up the vacancies shall conform to the rules prescribed in the Government of India Resolutions of 1934, 1942 and 1945.

(e) On every Public Service Commission or a Committee constituted for filling vacancies the Scheduled Castes shall have at least one representative thereon-

(2) Provision for higher education.

Clause 9 of the Poona Pact guarantees that an adequate sum shall be ear-marked for the education of the Scheduled Castes. But it does not define the quantum. The Federation wants that the quantum should be defined. The Federation demands:-

(1) Government shall accept financial liability for secondary and University education of the Scheduled Caste students as well as for their advanced education in foreign countries.

(2) The responsibility for finding money for foreign education of the Scheduled Castes shall be the responsibility of the Central Government and the Central Government shall make a provision of Rupees ten lakhs per year in itw annual budget in that behalf.

(3) The responsibility for finding money for secondary and University education of the Scheduled Castes in India shall be upon the Provincial Government and that the different Provinces shall make a provision in their annual budgets for the said purpose in proportion to the population of the Scheduled Castes to the total budget of the Province.

(4) These special grants shall be the first charge on the budget of the Central and Provincial Governments..

(5) That these special grants must be without prejudice to the rights of the Scheduled Castes to share in the expenditure incurred by the Provincial Government for the advancement of primary education for the people of the Province.

(3) Statutory Sanction for safeguards.

Not all the provisions of the Poona Pact found their place in the Constitution. Only the provisions relating to seats and electorates formed part of the Statute. The rest of the

provisions were left to gentleman's agreement. The Federation demands that every safeguard shall form part of the constitutional law of India and shall not be left to gentleman's agreement or to Convention.

(4) Changes in safeguards.

Clause 6 of the Poona Pact provides that the system of representation of the Scheduled Castes by reserved seats shall continue/until determined by mutual consent between the communities concerned in the settlement. Since it is necessary to make provision to amend, alter or abrogate the safeguards granted to the Scheduled Castes and since there is no safe method of ascertaining the will of the two communities, the Federation proposes that the following be substituted for clause 6 of the Pact:

(i) Any alteration in the safeguards shall be made by the Central legislature by a special Resolution passed in that behalf;

(ii) No such resolution shall be moved:

(a) unless 20 years have elapsed since the first election/after the constitution comes into operation;

(b) unless there has been six months' previous notice;

(c) unless the amendment/it is a general one affecting the safeguards provided for other communities as well.

(iii) No such resolution shall be considered except by a new legislature elected after notice of the Resolution has been given in the previous legislature.

(iv) No such Resolution shall be deemed to have been passed:

(a) unless it has been passed by a majority of two-thirds of the members of the House present and voting; and

(b) unless three-fourths of the members belonging to the Scheduled Castes present at the meeting have voted in favour of the resolution.

PART II - ALTERATIONS IN THE POONA PACT.

(1) Quantum of representation in the Legislature.

I. The quantum of representation given to the Scheduled Castes by the Poona Pact is set out in clause (1) of the Poona Pact. The proportion set out in the Pact was fixed out of the balance of seats which remained after (i) the share of other communities had been taken out; (ii) after weightage to other communities had been allotted and (iii) after seats had been allocated to special interests. The Federation regards this allotment of seats to the Scheduled Castes as unjust. The loss due to seats taken out as weightage and seats given to special interests ought not to have been thrown upon the Scheduled Castes. As the allotment of those seats had already been made by the Communal Award long before the Poona Pact, it was therefore not possible to rectify this injustice.

2. The Federation demands that in distributing seats the following principles shall be accepted:-

(a) Every community including the Scheduled Castes shall be given representation in proportion to its population;

(b) Weightage shall not be given to any particular community;

(c) Weightage where it becomes necessary to reduce a huge communal majority to reasonable dimensions shall come out of the share of the majority and shall be divided among all minor communities in inverse proportion to their(i) economic position; (ii) social status and (iii) educational advance.

(d) There should be no representation to special interests. But if the same is allowed it should come out of the share of representation given to that community to which the special interest belongs.

(2) Method of Election.

1. The method of election to the seats allotted to the Scheduled Castes is set out in clauses (2) to (4) of the Poona Pact. It provides for two elections(i) Primary election and (ii) Final election. The Primary election is by a separate electorate of the Scheduled Castes. It is only a qualifying election and determines who is entitled to stand in the final election on behalf of the Scheduled Castes for the seats reserved to them. The final election is a joint electorate in which both caste Hindus and the Scheduled Castes can vote and the final result is determined by the joint vote.

2. Clause (5) of the Poona Pact has limited the system of Primary election to ten years which means that any election taking place after 1947 will be a system of joint electorate and reserved seats pure and simple.

3. The result of the last election has proved how the Scheduled Castes can be completely disfranchised under the existing system. Things will be much worse under the system of joint electorates and the reserved seats which will hereafter become operative under the terms of the Poona Pact. The main reason is to be found in the enormous disparity between the voting strength of the Scheduled Castes and the caste Hindus in most of the constituencies. The disparity is as great as one in five hundred. As the Simon Commission has observed the devise of reserved seats ceases to be workable where the protected community would constitute an exceedingly small fraction of any manageable constituency. This disparity cannot be removed. It will remain even under adult suffrage. That being the case, the Federation feels that a safer method must now be found.

4. The Federation is opposed to both:

(i) the continuance of the Primary election even if it was conceded; as well as

(ii) Joint electorates pure and simple.

The Federation insists that any scheme of election for the

representation of the Scheduled Castes must be fool-proof and knave-proof, and must give the Scheduled Castes true representation in the Legislatures.

5. There are the following three methods to choose from

(i) separate communal electorates;

(ii) separate territorial electorates;

(iii) Joint electorates with the reservation that a successful candidate must have secured a certain percentage of Scheduled Caste votes..

6. The Federation prefers the system of separate electorates for the Scheduled Castes. The Federation is not at all impressed by the arguments urged against separate electorates. The opposition to separate electorates fails to make the distinction between the demand for separate electorates by a majority community and the demand for separate elecotrates by a minority community. A majority community being in a position to rule must, if the minority insists, submit itself to the wishes of the minority community. Otherwise, the Government by the majority will be government without the consent of the governed. The majority community can be forced to secure the consent of the minority only through a system of joint electorates. The position of the minority community is quite different. Even if it has to submit to the rule of the majority it must retain to itself the freedom to protest against the misrule of the minority by the Government of the majority community. This means that if it thinks that separate electorates alone will ensure its freedom to protect it is entitled to demand separate electorates.

7. The Federation contends that the correct view is to treat the electoral system as a mechanism devised for protecting the minority against the majority. If this principle is accepted, two conclusions automatically follow:-

(i) The system of electorate being a devise for the protection of the minority the issue whether the electoral system should be the joint electorate or separate electorate must be left to the wishes of the minority.

(ii) The majority being pre-destined to rule can have no voice in the determination of the system of electorates. If the minority wants joint electorates the majority must submit itself to joint electorates. Only the minority when it decides to have separate electorates for itself can force separate electorates upon the majority. In other words, the majority must look to the decision of the minority and abide by it.

Following this principle, the Federation contends that the Scheduled Castes being a minority community are entitled to determine the system of electorates. The Federation which represents the Scheduled Castes throughout India can say without fear of challenge that they want separate electorates. If there be any doubt, the Federation is quite prepared for a referendum of the Scheduled Castes to determine the issue.

8. The contention of the Hindus that the Scheduled Castes are Hindus and therefore cannot have separate electorates is a meaningless contention. It omits to take into account the fact that the electoral system is really a mechanism for the protection of a minority community and has nothing to do with religion. If any evidence of this is necessary one could refer to the case of the Europeans, Anglo-Indians and Indian Christians who are all one by religion, yet each have separate electorates.

9. Another objection to separate electorates is that they prevent solidarity between the Untouchables and the Caste Hindus. This objection is also without any substance. The elections take place once in five years. It is difficult to understand how social solidarity between the Hindus and the Untouchables can be promoted by devoting one day out of five years to joint voting, if for the rest of the five years they are leading severely separate lives? Similarly, it is difficult to understand how one day devoted to separate voting in the course of five years make greater separation than what already exists or contrarywise how can one day

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in five years devoted to separate voting prevent those who wish to work for union from carrying out their purposes? To make it concrete: How can separate electorate for the Untouchables prevent intermarriage or interdining being introduced between them and the Hindus? It is therefore puerile to say that separate electorates of the Untouchables will perpetuate separation between them and the Hindus if the Hindus desire to put an end to it.

10. The third objection urged against separate electorate is that they create an anti-national feeling. This again is an argument which is contrary to experience. The Sikhs have separate electorates. But no one can say that the Sikhs are anti-national. The Muslims have had separate electorates right from 1909. Mr.Jinnah has been elected by separate electorates. Yet, Mr.Jinnah was the apostle of Indian Nationalism up to 1939. Obviously, nationalism and anti-nationalism have nothing to do with the electoral system. They are the result of extra-electoral forces.

11. The Federation therefore does not feel bound to withdraw its demand for separate electorates especially when the arguments advanced against them have no force in them. The matter should be considered afresh. Knowing full well that what is against separate electorate is mere sentiment and prejudice but believing that even prejudice has to be respected if agreement is to be reached, the Federation is prepared to accept the second alternative namely, Territorial separate electorates in constituenceis in which seats are reserved for the Scheduled Castes subject to two conditions:-

(i) No other community is allowed to have separate communal electorates;

(ii) In the unreserved constituencies the Scheduled Castes will have the right to vote and the right to stand.

12. With regard to the third alternative, the Federation thinks unnecessary to consider the same and for the following reasons:-

(a) Administratively, it would be difficult to work. If it fails to work - its workability depends a great deal upon the honesty, integrity and impartiality of the polling staff - it would fail to ensure the election of true representatives of the Scheduled Castes which is what the Federation wants.

(b) The second alternative of Territorial separate electorates should suffice to meet the wishes and purposes of both sides since:

(i) the system gives the Scheduled Castes the right to send to the Legislature men who are their true representatives;

(ii) It does not politically segregate the entire community of the Scheduled Castes from the general community. Indeed only a very small part is segregated.

(iii) The system of Territorial separate electorate is a well-recognized system and has been in oppration in the Municipality of Madras. It was in operation during the Congress regime and was not objected to by the Congress Ministry. Attention is invited to the following provisions of the Madras City Municipal Act:-

"Section 5(1) The Council shall consist of:
(a) fortyfive divisional councillors, of whom forty shall be persons elected to general seats, three, to seats specially reserved for members of the Scheduled Castes and two to seats specially reserved for labour.

Section 45(2)(a) For the purposes of the election of the three Councillors to fill the seats specially reserved for members of the Scheduled Castes under clause (a) of sub-section (1) of section 5, the Provincial Government may select any three of the forty divisions referred to in sub-section (1) and by notification reserve seats in them for members of the Scheduled Castes.

This is nothing but a Separate & large electorate —

(b) The Provincial Government may after consulting the Council, by notification, vary any selection of divisions made by them under this sub-section and reserve any other division or divisions for members of the Scheduled Castes.

Section 46-A In each of the three divisions in which a seat is reserved for members of the Scheduled Castes the electors of such castes, voting separately from the other electors, shall elect a Councillor who shall be a member of any such castes to fill the seat so reserved while all the electors including the electors of such castes jointly shall elect

a Councillor to fill the other seat. In each of the remaining divisions, all the voters in the divisions voting jointly shall elect a Councillor."

13. Notwithstanding the strong point in favour of separate Territorial electorates, the Federation will, however be prepared to consider the third alternative if that is the only way by which peace can be established between the Congress and the Federation on terms and conditions set out in the following clauses:-

What a favour!

Clause I That this system will be applied to all minority communities.

Clause II That the successful candidate is required to secure not less than fortyfive per cent of the total votes of Scheduled Castes polled in the election or such other proportion as is fixed in the case of other minorities.

Why not 51 like Hyderabad?

Clause III Conditions for winning the Reserved seats:

(1) Successful candidate must have secured at least .. per cent(whatever is agreed upon) of valid votes polled by the Scheduled Castes in his election.

(2) If only one candidate from among the Scheduled Castes gets the prescribed minimum he will be declared elected in preference to another Scheduled Caste candidate who may be above him in the general poll but who has obtained less than the minimum prescribed in sub-clause(1) of Clause III.

(3) If two candidates from the Scheduled Castes obtain not less than the minimum votes prescribed under sub-clause (1) of clause III the candidate who has secured the larger number of votes in the general poll should be declared elected.

(4) If two candidates from the Scheduled Castes obtain equal number of votes of the Scheduled Castes, the votes obtained not being below the minimum prescribed under sub-clause (1) of Clause III and

also obtain equal number of votes in the total poll and there is a tie the result shall be declared by casting lots.

(5) If two candidates from the Scheduled Castes obtain not less than the minimum votes prescribed under sub-clause (1) of clause III and also obtain equal number of votes in the total poll the candidate who has received the larger number of Scheduled Caste votes shall be declared elected.

(6) If no candidate is found to have secured the minimum votes then all candidates but the two who have secured the highest number of valid votes of the Scheduled Castes be eliminated and of the remaining two candidates, the candidate who has secured the highest aggregate of votes shall be declared to be duly elected..

Clause IV: Type of Reserved Constituencies:

The Constituency in which a seat is reserved shall be a plural-member constituency with not less than three seats of which only one shall be reserved for the Scheduled Castes.

Clause V. Order of the Reserved seats for purposes of declaration of the Result

(i) In the Reserved constituency the Scheduled Caste voters shall be entitled to contest both the general seat as well as the Reserved seat.

(ii) Of the seats allotted to the constituency, the second seat shall be treated as the seat reserved for the Scheduled Castes.

(iii) When the counting of votes has been completed the Returning Officer in determining the results of election shall observe the following procedure:

(a) He shall ~~first~~ declare the candidate who obtains the highest total votes as elected irrespective of the community to which he belongs;

(b) He shall next proceed to declare the result of the reserved seat in accordance with the provisions set out in sub-clauses (1) to(6) of Clause III above;

(c) Thereafter he shall consider the election to the ~~remaining seat or seats and declare the~~ candidate or candidates as elected who has or have secured the highest votes as against other candidates.

Clause VI Franchise

The Franchise shall be adult franchise.

Clause VII System of voting:

The system of voting shall be cumulative

Why we ask for all the Seats in the Legislature as a Compensation?

Clause VIII That as a compensation for giving up their right to separate electorates the quota of seats as determined by the Poona Pact as revised under Part II of section I of this Memorandum shall be increased by fifty. Of these fifty, twentyfive shall be distributed among the Provinces and 25 shall be added to their quota in the Centrallegislature.

Clause IX. Scheduled Castes in non-Reserved Constituencies.

Constituencies where no seat is reserved shall be open constituencies and the Scheduled Castes therein shall have the right to vote in and to stand for election.

14. The system of election agreed upon for Central and Provincial Governments shall also apply to the representation of the Scheduled Castes in the Municipalities and Local Boards.

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PART III - ADDITIONS TO THE POONA PACT

(1) Representation in the Executive.

1. The Poona Pact made no provision for the representation of the Scheduled Castes in the Executive. This omission was due to two reasons: Firstly, it was due to the fact that at the time when the Poona Pact was made no community was guaranteed by law a specific quantum of representation in the Executive, Secondly, the representation of the communities in the Executive was left to convention which the Governor by his Instrument of Instructions was required to see observed. Both these circumstances having been changed, the Scheduled Castes Federation demands that the quantum of representation in the Executive should now be fixed and should be as follows:-

(a) In the Centre:

A minimum of two members in the Central Government. If the total number goes beyond 14 the number shall be raised proportionately.

(b) In the Provinces

(i) A minimum of two Ministers in Bombay, Madras, U.P., Bihar, Bengal and C.P.

(ii) A minimum of one Minister in Assam, Orissa and the Punjab.

(2) Agricultural Settlements for the Scheduled Castes.

The Untouchables have no future so long as they are made to live in Ghettoes in complete subordination of the caste Hindus. The real and effective way of liberating the Untouchables is to form separate settlements for them. For this purpose, the Federation proposes that the following provision should be made:-

What about other castes without lands?

(i) There shall be a Settlement Commission under the new Constitution to hold uncultivated lands belonging to the State in trust for settlements of the Scheduled Castes in separate villages.

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(ii) The Central Government shall set apart annually a fund of Rs.5 crores for the purpose of promoting the scheme of settlement.

(iii) That the Commission shall have the power to purchase any land available for the said purpose.

(3) Protection of the Scheduled Castes in Indian States.

Under the new Constitution, Indian States would be part of ~~the~~ British India. It is necessary that the new Constitution of United India should provide safeguards for the Scheduled Castes not merely to those residing in British India but also to those residing in Indian States. The Federation therefore demands that it shall be agreed that:-

ગામડાં પરનાવાસોના, ચોકડે પટેલને ઘેર પલાણ ઉના કરાવો

" All safeguards provided for the Scheduled Castes in British India shall be extended to the Scheduled Castes in the Indian States. Provision for such safeguards in the Constitution of an Indian State shall be a condition precedent for its admission into the Union Centre."

B R Ambedkar

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10th July 46

My dear Thakkar Bapa,

I have received your letter of the 7th inst. together with its enclosures. Dr. Ambedkar, I was told yesterday, was trying to meet Bapu through Shri N.M.Joshi, as he has now found out that he has been completely abandoned by the British Govt. When I see the cutting that you have sent from the 'Amrita Bazar Patrika', I feel that there is no meeting ground. If he was in a chastened mood and wanted to make up with the Congress, we could certainly have made use of him. But I do not think that he will change his attitude.

About the Constituent Assembly, instructions have been issued to all provinces to make adequate provision for Scheduled Caste candidates but the selection of candidates is left to the party. There will be fairly large number of Scheduled Caste candidates in the Constituent Assembly.

Yours sincerely,

Shri A.V.Thakkar,
Kasturba Gandhi National Memorial Trust,
Wardha.

तार : "MAKASTURBA"

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कस्तूरबा गांधी राष्ट्रीय स्मारक ट्रस्ट

(KASTURBA GANDHI NATIONAL MEMORIAL TRUST)

प्रधान-कार्यालय

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वर्धा 7th July, १९४6.

My dear Sardar, jee

I am herewith enclosing two cuttings regarding Dr. Ambedkar's activities from the Amrita Bazar Patrika and the Hitawad, which you mayfind interesting.

I am also sending a Hindi letter addressed by Shri Devidas Jatav, a Harijan leader of Delhi to Bapu, which he has forwarded to me. As this deals with his candidature for theconstituent assembly, I am sending the same to you.

I hope youare doing well.

Yours sincerely,

A V Thakkar

Sardar Vallabhbhai Patel,
Marine Drive,
Bombay.

Enclo:

दिल्ली. 82
३०.६.४८.

सेवा में,
पूज्य बापू जी.
सा. सं.

6-7-48

2/7/48

HARIJAN SEVAK SANGH
DELHI

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निवेदन यह है कि मैंने ता. २७.६.४८ को दिल्ली में चार बजे आपके दर्शनों का प्रयत्न किया परन्तु दुर्भाग्य से आपसे भेंट नहीं हो सकी। इसलिये अब मैंने यही उचित समझा कि मैं श्री बापू जी के चरणों में ही अपने प्रार्थना पत्र को भेजकर अपने विचार प्रकट करूँ। मुझे आशा है कि (आप) श्री बापू जी मेरे इस प्रार्थना पत्र में की गई प्रार्थना पर अवश्य ही विचार करके मुझे कृतार्थ करेंगे।

Bapa

मेरी प्रार्थना:-

इस होने वाली विधान निर्मात्री परिषद में समस्त भारत से ३८९ सदस्य प्रांतीय असेम्बलियों द्वारा तथा कुछ राजसंघ द्वारा सदस्य भेजे जायेंगे जिससे इसकी संख्या ४०० के लगभग हो जावेगी। जिनमें से ७८ मुस्लिम वोटों द्वारा ५ सिख वोटों द्वारा तथा ७३ देशी रियासतों के राजाओं द्वारा, बाकी २१४ हिन्दू P.T.O. कांग्रेस ने वोटों द्वारा चुनकर भेजेंगे। कांग्रेस वर्किंग कमेटी की घोषणा के अनुसार जो कांग्रेसी भी चुनकर जायेंगे। यह घोषणा बिल्कुल न्याय युक्त है। कारण - कि जो पुराने अनुभवी नेता हैं उनका इस विधान परिषद में जाना बहुत ही आवश्यक है। कांग्रेस वर्किंग कमेटी की घोषणा के आधार पर व्यक्ति प्रेम कांग्रेसी के चुनने का पूर्ण निश्चय है तथा कुछ को तो नाम भी समाचार पत्रों में प्रकाशित कर दिया है।

क्या मैं आपसे इस विषय में कुछ प्रार्थना पूर्वक निवेदन कर सकूँगा? मुझे पूर्ण आशा है कि आप मुझे अवश्य ही निवेदन करने की आज्ञा देंगे।

निवेदन यह है कि इस विधान निर्मात्री परिषद में हरिजन P.T.O. को कांग्रेस आपके आदेशानुसार लेवेंगे ही, किन्तु जो ऐसे हरिजन नेता, जिनका आज तक का जीवन हरिजनोद्धार के कार्यों में ही बीत गया है, क्या आप ऐसे सज्जनों को भी ऐसे परिषद में चुन कर भेजने के लिये कांग्रेस वर्किंग कमेटी को आदेश जारी करेंगे? मुझे पूर्ण आशा है कि आप अवश्य ही इस प्रकार का आदेश जारी करेंगे।

मैं आपके समस्त कुछ ऐसे हरिजन तथा स्वर्ण हिन्दुओं के नाम उपस्थित करता हूँ जिनको हरिजन जनता जानती और मानती है। तथा जिनके सहयोग से मैं लगभग ३० वर्षों से कार्य करता आ रहा हूँ जो आप जैसे महात्मा की दृष्टि में भी होगा ऐसे महान सेनानियों के कुछ नाम मैं आपकी सेवा में उपस्थित करता हूँ।

१. श्री बाप्पा स. का. ठक्कर. २. श्री. जी. रामडेकर (नागपुर) ३. श्री बी. सी मन्डल (कलकत्ता)
४. डा. धर्मप्रकाश जी (बरेली) ५. श्री बा. जगजीवन राम जी (पटना)
६. श्री बा. लक्ष्मीचन्द जौहरे (आगरा) ७. श्री मास्टर विश्वम्भर दयालु जी (करनाल)

१ मिस के. एस. रंगराव (बंगलोर) तथा
२. एक कोई सज्जन घना के श्री महात्मा सिन्धे साहाब की मिशन के।
इनके अतिरिक्त आप स्वंय भी हरिजन जेताओं को जानते हैं।

आपको मैंने इस विनय पत्र के द्वारा बहुत ही कष्ट दिया है।
इस कष्ट के लिये मैं आपसे क्षमा याचना करता हूँ। आशा है आप अवश्य ही क्षमा करेंगे।

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मु. देवली,